IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2209 OF 2000

J. Pandey. .. .. Petitioner
v/s.
Union of India & 2 ors. .. Respondents

Mr.G.K.Masand with Ms.Subhalaxmi Gode-Sawant for petitioner.

Mr.Girish Kulkarni for res.No.2.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 18th July 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. This petition seeks to challenge the order dated 20th October 1999 passed by the Central Administrative Tribunal on Original Application No.366 of 1994. That Original Application sought to challenge the seniority and the placement of respondent No.3 herein as the Deputy Director, Planning and Statistics in the Union Territory of Daman and Diu. That position was given to him way back in the year 1989.

3. Mr.Masand, learned Counsel appearing for the petitioner, submits that at that particular point of time, the petitioner had opted for Union Territory of Daman and Diu. Respondent No.3

preferred to remain in the State of Goa. The problem arose because both of them were initially in the Government of Goa, Daman and Diu. After Goa was converted into a State and Daman and Diu were separated therefrom, the petitioner opted for Daman. Respondent No.3 took time to take his decision. He first opted for Goa and came to Daman subsequently. The case of the petitioner is that he having come to Daman first, under the relevant rules when the post of Deputy Director became available, that should have been given to him by way of promotion.

4. What we find from the record is that the petitioner and respondent No.3 were both initially in the services of Goa, Daman and Diu. The petitioner joined as a Statistical Officer on 1.9.1986, whereas respondent No.3 had joined the services in 1978 and had become a Statistical Officer in 1984. The petitioner came to Daman services earlier but at that time he was still on probation. Thus when the post of Deputy Director became available in the services of Daman and Diu respondent No.3 was taken on deputation since a person was needed in that post. He joined on deputation in Daman on 21st July 1987. At that point of time, the petitioner was not eligible

inasmuch as he had not completed his period of two years of probation. Later-on in 1992, respondent No.3 has been absorbed on regular basis.

5. Mr.Kulkarni, learned Counsel appearing for respondent No.2, submits that in the common seniority undoubtedly respondent No.3 was senior. It is only because he opted for Daman services later, that the petitioner is trying to make out a case.

6. We have considered the rival submissions of the parties. We find that Union of India has taken an overall view and subsequently effected the necessary corrections. That is on the basis of continuous officiation in the original cadre. We find that there is nothing wrong on their part in taking the decision that is arrived at. The Administrative Tribunal has also taken the same view. We do not find any error in it.

7. Incidentally it may be noted that respondent No.3 has since passed away on 6.11.2004 and the petitioner is now holding the charge of the post of Deputy Director.

8. Petition is rejected.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)